

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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R.S. COPPOLA TRUST - OCT. 19, 1995,  
*et al.*,

Plaintiffs,

v.

NATIONAL DEFAULT SERVICES, *et al.*,

Defendants.

Case No. 3:21-cv-00281-MMD-WGC

ORDER

Plaintiffs sued Defendants for wrongful foreclosure, quiet title, and related causes of action in state court. (ECF No. 1-1 at 21-58.) Defendants removed to this Court. (ECF No. 1.) Before the Court is Plaintiffs' motion asking that I recuse from this case because my impartiality might reasonably be questioned, or I am actually biased against them. (ECF No. 27 ("Motion") at 14-17.) As further explained below, I decline to recuse from this case because I do not find that my impartiality can be reasonably questioned, and the affidavit Plaintiffs submitted with their Motion is legally insufficient.

Plaintiffs appear to seek my recusal under either 28 U.S.C. § 144 or 28 U.S.C. § 455(a), relying primarily on *United States v. Sibla*, 624 F.2d 864 (9th Cir. 1980). (ECF No. 27 at 12-14.) I agree with Plaintiffs that the current circumstances in this case are analogous to *Sibla* in some respects, but instead find that *Sibla* supports my decision not to recuse. First, in *Sibla*, the Ninth Circuit Court of Appeals affirmed a district judge's decision not to recuse from a case where a *pro se* litigant questioned the judge's impartiality under Section 455(a) and filed an affidavit under Section 144 that the district judge rejected as legally insufficient. *See generally* 624 F.2d 864. Second, "the district judge noted that a discovery motion filed by *Sibla* related to a frivolous legal argument concerning the validity of the federal income tax scheme. The judge thoroughly

1 admonished Sibla that similar challenges to the federal tax laws had been routinely  
2 rejected by the courts and that Sibla would be ‘in great trouble in connection with the  
3 defense of this case,’ if he relied on that argument.” *Id.* at 866. I have made no similar  
4 statements in this case. My involvement thus far has been limited to several written orders.  
5 That difference is another reason why *Sibla* supports my decision to deny the Motion.

6 Third, to the extent Plaintiffs seek my recusal under Section 144, I find that Plaintiffs’  
7 affidavit is legally insufficient, similar to the affidavit in *Sibla*. The key portion of Plaintiffs’  
8 affidavit lacks facts—it is a partial page of Plaintiffs’<sup>1</sup> explanation as to why they filed a  
9 recusal motion. (ECF No. 27-1 at 13 (including the representative statement “I have  
10 brought the accompanying motion as soon as I could become satisfied the motion was  
11 justified.”).) The rest of the affidavit consists of a procedural history of this case so far. (*Id.*  
12 at 1-12.) The Motion and accompanying affidavit contain only “conclusions and are devoid  
13 of specific fact allegations tending to show personal bias stemming from an extrajudicial  
14 source.” *Sibla*, 624 F.2d at 868. The affidavit (ECF No. 27-1) is accordingly legally  
15 insufficient, and I decline to refer the Motion to another district judge for review under  
16 Section 144. See *id.* at 867 (describing the procedural requirements under Section 144),  
17 868-69 (affirming the district court’s finding that the affidavit was legally insufficient).

18 Fourth, to the extent Plaintiffs seek my recusal under Section 455(a) because my  
19 impartiality might reasonably be questioned, I also decline to recuse under that statute.  
20 Section 455(a) requires an objective inquiry. See *United States v. Holland*, 519 F.3d 909,  
21 912-14 (9th Cir. 2008). But this objective standard “must not be so broadly construed that  
22 it becomes, in effect, presumptive, so that recusal is mandated upon the merest  
23 unsubstantiated suggestion of personal bias or prejudice.” *Id.* at 913 (citation omitted).  
24 And in their Motion, Plaintiffs do not identify any bias or prejudice directed at them that  
25 “stems from an extrajudicial source.” *Sibla*, 624 F.2d at 868 (citation omitted). Instead,  
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27 <sup>1</sup>I refer to Plaintiffs because there are currently two Plaintiffs in this case, but the  
28 key page of the affidavit is written in the first person, presumably from Ralph Stephen  
Coppola’s perspective. (ECF No. 27-1 at 13-14.)

1 Plaintiffs challenge two of my decisions in this case, arguing I am biased against them  
2 because I overruled Plaintiffs' objections to two of United States Magistrate Judge William  
3 G. Cobb's orders. I stand by the two decisions Plaintiffs challenge, and they do not reflect  
4 bias against Plaintiffs in any event.

5 Plaintiffs first challenge my minute order overruling their objection to one of United  
6 States Magistrate William G. Cobb's orders requiring they obtain counsel. (ECF No. 27 at  
7 14-15.) Plaintiffs made the same argument in a motion for reconsideration that I recently  
8 denied. (ECF No. 28.) I decline to recuse in response to this argument for the same  
9 reasons I denied their motion for reconsideration. (See *id.*) I refer Plaintiffs to my order  
10 denying their motion for reconsideration for my view as to how this case should proceed.  
11 (*See id.*)

12 Plaintiffs next challenge another one of my minute orders overruling another one of  
13 their objections to another one of Judge Cobb's orders. (ECF No. 27 at 16-17 (challenging  
14 ECF No. 26).) Plaintiffs argue I erred because I did not construe their response to  
15 Defendants' second motion for an extension of time filed after Judge Cobb granted that  
16 request for an extension of time in an order as an objection to the order. (*Id.*) Contrary to  
17 Plaintiffs' argument, I did not err in the challenged minute order—even considering that  
18 Plaintiffs are (at least for now)<sup>2</sup> proceeding *pro se*. While Plaintiffs' response to  
19 Defendants' second request for an extension of time is titled an objection (ECF No. 14 at  
20 1), it is better read as a response because it does not contemplate that Judge Cobb  
21 already ruled on the motion (*see generally id.*). It cannot reasonably be construed as an  
22 objection to Judge Cobb's order. Accordingly, I did not err in overruling Plaintiffs' objection  
23 to Judge Cobb's order granting Defendants' first motion for an extension of time as moot.  
24 (ECF No. 26.)

25 Regardless, the two arguments Plaintiffs raise in their Motion reflect substantive  
26 disagreement with my decisions thus far in this case—not "bias or prejudice [that] is

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28 <sup>2</sup>I again refer Plaintiffs to my order denying their motion for reconsideration. (ECF  
No. 28.)

1 directed against a party and stems from an extrajudicial source.” *Sibla*, 624 F.2d at 868.  
2 Plaintiffs’ arguments are accordingly unpersuasive in a recusal motion. *See generally id.*  
3 I find that no reasonable person would question my impartiality based on the limited  
4 actions I have taken thus far in this case and the arguments raised in the Motion. For this  
5 reason—and as explained above—it is my duty to continue to preside over this case and  
6 I therefore must deny the Motion. *See Holland*, 519 F.3d at 912 (noting the general  
7 proposition that, “in the absence of a legitimate reason to recuse [her]self, ‘a judge should  
8 participate in cases assigned.’”).

9 It is therefore ordered that Plaintiffs’ motion for recusal of judge (ECF No. 27) is  
10 denied.

11 DATED THIS 12<sup>th</sup> Day of October 2021.

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14 MIRANDA M. DU  
15 CHIEF UNITED STATES DISTRICT JUDGE  
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